



2. On April 13, 2015, Plaintiffs/Judgment-Creditors and Plaintiff/Judgment-Receiver sued Defendant/Judgment-Debtor in the 269<sup>th</sup> Judicial District Court of Harris County, Texas, in Cause No. 2015-21206 styled *Grier Patton and Camille Patton, Plaintiffs/Judgment-Creditors, and David A. Fettner, Plaintiff/Judgment-Receiver, v. Mid-Continent Casualty Company, Defendant/Judgment Debtor*, which case is still pending in said court.

3. Defendant/Judgment-Debtor MID-CONTINENT CASUALTY COMPANY was served with such suit on April 27, 2015. Defendant/Judgment-Debtor MID-CONTINENT CASUALTY COMPANY files this its Notice of Removal within the 30-day time period required by 28 U.S.C. §1446(b).

## **II. BASIS FOR REMOVAL**

4. Removal is proper because there is complete diversity between the parties. *See* 28 U.S.C. §1332(a). Plaintiffs/Judgment-Creditors, Grier Patton and Camille Patton, are individuals who reside at 5803 Bayou Glen Road, Houston, Harris County, Texas. Plaintiff/Judgment-Receiver, David A. Fettner, is the duly appointed, qualified and acting Receiver, whose office address is 6700 Sands Point Dr., Houston, Harris County, Texas 77074. Defendant/Judgment Debtor MID-CONTINENT CASUALTY COMPANY is a foreign corporation organized and existing under the laws of the state of Ohio with its principal place of business in Tulsa, Oklahoma. The amount in controversy exceeds \$75,000, excluding interest and costs, since the Plaintiff is seeking to recover under the policy for property damage in excess of \$2 million. Further, Plaintiff/Judgment-Creditors and Plaintiff/Judgment-Receiver seek judgment for attorneys' fees, Receiver's fees and expenses, punitive damages in amount to be determined by the trier-of-fact, actual damages as provided by the DTPA, punitive damages as provided by the

Texas Insurance Code, pre-judgment interest as provided by law, post-judgment interest after date of judgment at the then legal rate per annum until fully paid, and for costs of court.

5. All pleadings, process, orders and other filings in the state court action will be attached to this notice as required by 28 U.S.C. §1446(a) as follows:

	Document	Date
1.	<b>Docket Sheet</b> in Cause No. 2015-21206, <i>Patton v. Mid-Continent</i> , 269 <sup>th</sup> District Court, Harris County, Texas	
2.	Supplemental Docket Sheet	
3.	<b>Plaintiffs' Original Petition</b> , Demand for Jury Trial and T.R.C.P. § 194, Request for Disclosures	04/13/2015
4.	<b>Exhibit A</b> , Certificate of Liability Insurance issued to Black Diamond Builders Corp., Black Diamond Development Corp., Black Diamond Builders, LLP, Black Diamond Development, LLP by insurer A, Mid-Continent Casualty Co., Insurer B: Travelers P & C Co. of America; Insurer C: Hartford Underwriters Ins. Co.; and Insurer D: Oklahoma Surety Co. on Policy Nos. 04GL00055-4256; 06TX002906111; 46WECGF2612 and QT66000515B220TIL04	05/13/2011
5.	<b>Exhibit B</b> , Certificate of Liability Insurance attaching Mid-Continent Casualty Company Policy No. 04-GL-000596014 issued to Black Diamond Builders LLP, Black Diamond Development LLP	07/14/2005
6.	<b>Exhibit C</b> , Certificate of Liability Insurance attaching Mid-Continent Casualty Company Policy No. 04-GL-000638365 issued to Black Diamond Builders LLP, Black Diamond Development LLP	04/19/2006
7.	<b>Exhibit D</b> , Mid-Continent Casualty Company Policy No. 04-GL-000680691 issued to Black Diamond Builders Corp., Black Diamond Development Corp.	04/10/2007
8.	<b>Exhibit E</b> , Mid-Continent Casualty Company Policy No. 04-GL-000722792 issued to Black Diamond Builders Corp., Black Diamond Development Corp.	05/07/2008
9.	<b>Exhibit F, Judgment in <i>Patton v. Black Diamond Builders, LLP</i></b> , in Cause NO. 2011-42562; in the 55 <sup>th</sup> Judicial District Court of Harris County, Texas	01/12/2015
10.	<b>Exhibit G, Order for Turnover Relief and Appointment of Receiver in <i>Patton v. Black Diamond Builders, LLP</i></b> , in Cause No. 2011-42562 in the 55 <sup>th</sup> Judicial District Court of Harris County, Texas	03/16/2015
11.	<b>Exhibit H</b> , Letter from Claude Husbands of Mid-Continent	04/16/2010

	Casualty Company to Ms. Bonner Ball of Black Diamond Builders Corp. regarding Claim No. 1304123	
12.	<b>Exhibit I</b> , Letter from Robert W. Pileggi of Mid-Continent Casualty Company to Thomas Zenner of Black Diamond Builders Corp. and David W. Medack of Heard & Medack, PC regarding Claim No. 1304581	02/15/2012
13.	<b>Exhibit J</b> , Letter from Claude Husbands of Mid-Continent Casualty to Ms. Bonner Ball of Black Diamond Builders Corp. and David W. Medack of Heard & Medack, P.C.	05/22/2012
14.	<b>Civil Case Information Sheet</b>	04/13/2015
15.	<b>Civil Process Request Form</b>	04/13/2015
16.	<b>Defendant/Judgment-Debtor Mid-Continent's Original Answer</b>	05/15/2015

6. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court action where the action has been pending is located in this district.

7. Defendant/Judgment-Debtor will promptly file a copy of this notice of removal with the clerk of the state court where the action has been pending.

### **III.** **PRAYER**

**WHEREFORE**, Defendant/Judgment-Debtor MID-CONTINENT CASUALTY COMPANY asks the Court to remove the action referred to as Cause No. 2015-21206 styled *Grier Patton and Camille Patton, Plaintiffs/Judgment-Creditors, and David A. Fettner, Plaintiff/Judgment-Receiver, v. Mid-Continent Casualty Company, Defendant/Judgment Debtor*, in the 269<sup>th</sup> Judicial District Court of Harris County, Texas, to this federal court.

Respectfully submitted,

By: /s/R. Brent Cooper

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**ATTORNEYS FOR DEFENDANT, MID-  
CONTINENT CASUALTY COMPANY**

**CERTIFICATE OF SERVICE**

A true and correct copy of the above and foregoing document was served on counsel for all parties listed below pursuant to the Federal Rules of Civil Procedure on the 21st day of May 2015.

Michael A. Hirsch  
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Via email: [mhirsch@ssbplaw.com](mailto:mhirsch@ssbplaw.com) and  
Facsimile: 713-785-2091

:/s/R. Brent Cooper

R. Brent Cooper